IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8596 of 1991

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMJIBHAI T. KORAT

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MR TR MISHRA for Petitioner

MR MD PANDYA for Respondent

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 01/12/2004

ORAL JUDGEMENT

The petitioner is the son of one Tapu Pancha Korat. The petitioner claims employment in the Gujarat Electricity Board, the respondent herein (hereinafter

referred to as 'the Board'), as a matter of right.

The above referred Shri Tapu Pancha owned agricultural land bearing Survey No.101 admeasuring 9 acres 27 gunthas at village Pithadia, District Rajkot. In the year 1982, part of the said land admeasuring 5 acres 26 gunthas was acquired by the Board for the purpose of construction of Dhareshwar sub-station. This left the said Tapu Pancha with 4 acres and 1 guntha of land of Survey No.101 and some other lands. Since the aforesaid acquisition of the land, the petitioner passed S.S.C. examination in the year 1984 and secured a degree in Commerce in the year 1990. He, thereafter, made a representation and claimed employment in the Board. The said representation was rejected by communication dated 20th November, 1990. Feeling aggrieved, the petitioner has preferred the present petition. The petitioner claims that his family having lost land due to compulsory acquisition for the purpose of the Board and the petitioner being qualified to hold a post in the Board, the petitioner is entitled to employment in the Board, as a matter of right.

Learned advocate Mr. Mishra has appeared for the petitioner. He has submitted that it is the consistent policy of the Board to offer employment to a member of the family whose land is compulsorily acquired for the purpose of the Board. He has relied upon the further affidavit made by the petitioner and the statement annexed thereto. He has submitted that the employment was given to almost all the claimants with respect to Sikka sub-station and Wanakbori thermal power station. The denial of similar benefit to the petitioner is arbitrary. The land holders were assured employment. The same cannot now be refused under the guise that the land of the family of the petitioner, acquired for the purpose of the Board, was less than 50% of its total holding.

Learned advocate Mr. Pandya has produced a certificate dated 7th July, 1990 issued by the Talati-cum-Mantri of the said village Pithadia and the abstract of Form No.8-A with respect to the holding of the aforesaid Shri Tapu Pancha Korat. Upon perusal of the said two documents, it is evident that after acquisition of the part of the land bearing Survey No.101, the said Tapu Pancha sold away the remaining land of the said Survey No.101. The said Tapu Pancha also owns other lands bearing Survey Nos. 104/1 paiki, 49/2 and 14 admeasuring 17 acres 2 gunthas. Thus, it is evident that after acquisition of land admeasuring 5

acres 26 gunthas, the said Tapu Pancha was left with the agricultural lands admeasuring more than 21 acres 3 gunthas. In other words, the land acquired constituted some 20% of the total holding of the said Shri Tapu Pancha.

Learned advocate Mr. Pandya has relied upon the order dated 12th December, 1996 made in Special Civil Application No.5913 of 1984 (Coram: S.K. Keshote, J.). In the said matter, a similar claim for employment was made which was rejected by the learned Judge. It was held that, "the land is acquired under the provisions of the Land Acquisition Act, for which the land holders would have been given and should have been given due compensation. It is not the case of the petitioner that compensation was not made. It is also not the case of the petitioner that there was a condition that on acquisition of the lands, appointment to one of the family members of the land loser would be given. Otherwise also, no such condition could have been there because the Land Acquisition Act nowhere provides for giving of employment to the persons whose land has been acquired." Mr. Pandya has also relied upon the order dated 4th February, 1999 made by me in Special Civil Application No.2364 of 1998. In that case in answer to a similar claim made for employment, the Board had relied upon its General Standing Order which read as under:

> "The Board also approved that GEB will employ one person of the family losing 50% or more land of his own due to above considering his or her qualifications."

In other words, the Board has, in principle, agreed to offer employment to one of the members of the family whose land was acquired for the purpose of the Board provided that the land acquired constitutes 50% or more of the total holding and that the person concerned is eligible for such appointment. In the present case, as recorded hereinabove, only 20% of the total holding of the said Tapu Pancha was acquired for the purpose of the Board. The petitioner, therefore, cannot be extended the benefit of the above-referred General Standing Order. The petitioner has neither a fundamental nor a statutory nor a contractual right to employment. Nor such right can be claimed on the principle of Promissory Estoppel. The claim made by the petitioner is misconceived and requires to be rejected.

In view of the above discussion, the petition is dismissed with cost. Rule is discharged.

(Miss R.M. Doshit, J.)

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